S.B.CIVIL WRIT PETITION NO.27/1996

Smt. Prem Kanwar & Ors.
V.
State of Rajasthan & Ors.

Date of Order :: 9th July, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. A.K.Rajvanshy, for the petitioners.
Mr. B.L.Tiwari, Deputy Government Advocate.

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By this petition for writ a challenge is given by the petitioner to the order dated 6.12.1994 passed by the Board of Revenue, Rajasthan, Ajmer rejecting the revision petition preferred by the petitioner to assail validity, propriety and correctness of the order dated 15.12.1992 passed by the Revenue Appellate Authority (Second), Jodhpur.

In brief, facts of the case are that the Sub Divisional Officer, Pali by an order dated 7.9.1976 held that Late Shri Prithvi Singh was having 22.48 standard acres land more than the ceiling prescribed for agricultural holding. According to the petitioners the land in question was ancestral property of the petitioners and during lifetime of Shri Prithvi Singh partition of the land was made on 29.3.1965. The Sub Divisional Officer disbelieved the partition-deed on the count that names of petitioners Arjun Singh and Abhay Singh were entered in the revenue records after death of Shri Prithvi Singh being his sons. Petitioners Smt. Prem Kanwar, Smt. Paras Kanwar and

Smt. Padam Kanwar, all daughters of Late Shri Prithvi Singh then preferred a revenue suit before the Assistant Collector, Pali for correction in revenue records against petitioners Arjun Singh and Abhay Singh. The suit aforesaid was decreed by judgment dated 2.4.1979 holding therein that all the five persons are having equal share in the land of Late Shri Prithvi Singh. After the judgment dated 2.4.1979 the petitioners preferred an appeal before the Revenue Appellate Authority (Second), Jodhpur giving challenge to the order dated 7.9.1976 on the count that the ceiling case relating to Late Shri Prithvi Singh was decided by treating them one unit whereas all the petitioners were co-sharers to the land assessed under the order dated 7.9.1976. The Revenue Appellate Authority (Second), Jodhpur by its order dated 15.12.1992 rejected the appeal being barred by limitation prescribed. A revision petition thereafter was preferred before the Board of Revenue, Rajasthan, Ajmer and that too came to be rejected by order impugned.

While giving challenge to the orders passed by the Revenue Appellate Authority as well as by the Board of Revenue the contention of counsel for the petitioners is that the order dated 7.9.1976 was passed without giving an opportunity of hearing to them, therefore, same deserves to be quashed.

Heard counsel for the parties and also examined the record.

From the order passed by the Revenue Appellate Authority (Second), Jodhpur it is apparent that after death of Shri Prithvi Singh, petitioners Arjun Singh and Abhay Singh preferred an appeal giving challenge to the order dated 7.9.1976 wherein the other petitioners were also made party being legal representatives of Late Shri Prithvi Singh. On behalf of petitioners Arjun Singh and Abhay Singh as well as on behalf of other petitioners power was filed by their advocates and as such the Revenue Appellate Authority (Second), Jodhpur held that all the petitioners were having knowledge much back in the year 1977 about issuance of the order dated 7.9.1976. The Revenue Appellate Authority on basis of the finding above rejected the appeal that was filed in the year 1991. The Board of Revenue accepted the finding given by the Revenue Appellate Authority. I am also satisfied that no error was at all committed by the courts below in reaching at the conclusion that the petitioners were having knowledge of the order dated 7.9.1976 in the year 1977 itself and as such the filing of appeal in the year 1991 is just an attempt with a motive to re-challenge the order dated 7.9.1976 with support of decree of partition obtained by petitioners Smt. Prem Kanwar, Smt. Paras Kanwar and Smt. Padam Kanwar. The proceedings initiated by the

petitioners by way of filing the appeal in question were not at all bonafide.

In the circumstances, I do not find any error in the orders impugned that may warrant interference of this Court under Articles 226 and 227 of the Constitution of India. The petition for writ is accordingly dismissed.

(GOVIND MATHUR),J.

Kkm/ps.